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TAGS: [SNAR](#) [PREL](#) [PINR](#) [KCRM](#) [PGOV](#) [KE](#)
SUBJECT: (S) INTERNATIONAL DRUG TRAFFICKING RING ENJOYS
IMPUNITY IN KENYA

REF: A. 05 NAIROBI 2243

[1](#)B. 04 NAIROBI 5341

Classified By: POL/Couns Michael J. Fitzpatrick. Reasons:
1.4 (B,C,D)

[1](#)1. (S) SUMMARY: The absence of convictions in high-profile cocaine cases and the New Year's Eve murder of the lead police officer investigating drug trafficking through the Port of Mombasa (East Africa's regional maritime hub) amply demonstrate that international narcotics trafficking rings have made major inroads into Kenya, corrupting, bribing, intimidating and killing their way into position to operate with relative impunity. Little progress has been made in exposing those behind the shipment of, or providing political protection for, the record one ton-plus shipment of cocaine seized here in December 2004. The lackluster performance of legal and law enforcement authorities in the cases, the increasingly whispered fear that national politicians are providing protection for the ring, and now the murder of Officer Hassan Abdillahi, sharply undermine post's confidence that Kenyan authorities are serious about combating international narcotics trafficking. And despite continuing concerns of its possible diversion back onto the streets, Kenyan authorities are no closer to even deciding how or when to destroy that cocaine that actually has been seized. Post recommends it is time Washington turns up the heat. END SUMMARY.

BUNGLING THE BUST

[1](#)2. (S) The then-largest recorded seizure of cocaine in Africa occurred in Kenya in December 2004, with simultaneous seizures of containers -- totaling more than one ton of cocaine -- in Nairobi and the coastal town of Malindi. This followed the interception in the Netherlands of a related consignment of cocaine (of several hundred kilos) believed shipped from Kenya by seaborne container. Dutch authorities arrested several persons, including the son of a former Kenyan Member of Parliament (MP). Kenyan authorities separately arrested 12 Kenyans and 2 Italians and charged them with involvement of the various shipments seized by the Dutch or Kenyan authorities. (NOTE: Initial information provided to the Kenyan authorities by European partners indicated exactly where "several tons" of cocaine was to be found in Kenya. When the Kenyan authorities finally did move on the information more than one week later, several implicated had calmly departed the country, and only one ton was recovered. END NOTE.) In the year since then, there has been minimal progress in the investigation -- and much cause for concern.

[1](#)3. (S) During a December 19 meeting with Emboffs, XXXXXXXXXXXX expressed a high level of frustration with the poor handling of the investigation and prosecution by the Kenya Police Service and the Department of Public Prosecutions. Seven suspects stand accused of trafficking the cocaine seized December 2004 in both Malindi (837.5 Kg) and Nairobi (304 Kg). Following months of mounting frustration with the prosecution's failure to introduce the drugs into court as evidence (without which there is no case), Chief Magistrate Aggrey Muchelule had ordered the court to visit the warehouse where the drugs were stored. (NOTE: The drugs are technically under the court's jurisdiction, but were turned over to Police Commission Ali for safeguarding at a presumably secure, undisclosed location. One of the only three police officers said to have keys to the storage facility was murdered this year under highly suspicious circumstances; several of his immediate family members have since also been killed. The police balked at moving a ton of cocaine to the court -- or of having the court come to the "undisclosed" location. END NOTE.)

[1](#)4. (C) But the Court finally had its way, and helicopters ferried the drugs to and from a neutral location for the Court to inspect. The Court's October visit (with press in tow), however, did little to allay concerns that the drug haul may have been tampered with or that the drugs were finding their way back into the market. (NOTE: The arrests of a continuing stream of Kenyan Airways employees at

London's Heathrow Airport for smuggling cocaine on flights from Kenya points ominously at the latter. The most recent arrest occurred just this week. END NOTE.) Upon viewing the seizure, defense attorneys alleged discrepancies in the weight and color of the displayed packets from those originally seized. Despite U.S., UK and Dutch repeated offers to assist in the analysis and testing of the seized goods, and to help trace the network responsible for the shipment, Kenyan authorities have kept all foreign missions at arms' length. To date, only a small fraction of the seizure has been tested -- in private, by the Kenyan Police. Controversy remains surrounding the manner and timing of destruction of the drugs; neither the court nor the

government has a plan to confirm that what is still being warehoused is cocaine (and not flour or some other substitute), much less a plan for publicly destroying the seized drugs. The court case is scheduled to resume before Magistrate Muchelule January 15, 2006.

15. (C) Kenya,s confused and conflicting legal provisions on the analysis requirements for narcotics seizures also hinder the investigation. As a result of U.S., UK and Dutch pressure, the Nairobi branch of the United Nations Office on Drug and Crime worked with the State Law Office and the Department of Public Prosecutions to develop a protocol to the Narcotic Drugs and Psychotropic Substances Regulations on the seizure, analysis, and disposal to facilitate the investigation and prosecution of these seizures. Drafted months ago, the protocol has yet to come into force. The Attorney General must still draft, and then table an amendment before Parliament, which must then vote a change in one of the governing laws before the AG can even issue regulations to implement the protocol. But Parliament has prorogued by the President (for unrelated reasons) until at least March) too late to assist in the prosecution of at least one of the cocaine cases.

INCOMPETENCE? LACK OF WILL? OR WORSE?

16. (S) In the first of the two cases being pursued in Kenya, seven suspects were acquitted November 18 of drug trafficking charges connected to the shipment of drugs originating from Kenya seized in the Netherlands. The presiding magistrate, Rose Ougo, sharply criticized the police and the prosecution for their failure to build a case connecting the Kenyan defendants with the drugs, or to even establish that the substance seized was a narcotic. Muchelule privately complained to Emboffs that Kenyan legal and law enforcement authorities did not liase with authorities in the Netherlands to even confirm that what was seized was cocaine. Nor, he said, do they cooperate in the Dutch investigation of the case. Ougo was reportedly enraged that evidence she understood had been collected was not presented in Court. (COMMENT: Though he did not say so explicitly, we took his comments to imply that both Muchelule and Ougo were aware of quiet rumors that Dutch phone records implicating Kenyan politicians with the traffickers, among other items, had been stripped out of the prosecutor's case file. END COMMENT.) Ougo, Muchelule said, had no choice but to dismiss the charges for lack of evidence. In her decision, the magistrate issued scathing statements accusing legal and law enforcement authorities of conducting shoddy investigations. The handling of the case was so deficient that the magistrate questioned the seriousness of the Attorney General,s commitment to combating drug trafficking. (Post is seeking a copy of Ougo's ruling, which has yet to be published.)

17. (S) XXXXXXXXXXXX decried to Poloff December 1 that the separation of the two December 2004 cocaine cases was a ruse to prevent successful investigation or prosecution. XXXXXXXXXXXX said the move &buried8 evidence of an international trafficking ring operating (with official sanction) i Kenya by denying the authorities the ability to make a legal connection between the cocaine seized in Kenya and the shipment sized in the Netherlands. (XXXXXXXXXXXX) According to XXXXXXXXXXXX, those being prosecuted now are mere scapegoats, while the real guilty parties (including Christopher Murungaru, who was Sec

MURDER OF OFFICER INVESTIGATING DRUG TRAFFICKING

18. (S) Further undermining confidence in the ability of law enforcement, Kenya Ports Authority District Criminal Investigations Officer (DCIO) Hassan Abdillahi was murdered this past December 31. Criminal Investigations Division (CID) Chief Joseph Kamau publicly stated that Abdillahi's murder may have been linked to his investigations into organized narcotics trafficking and related criminal activity through the Port of Mombasa. (He reportedly had been investigating the theft of 39 shipping containers from a secure port facility. Press reports allege that Interpol had tipped Abdillahi to the possible presence of another major cocaine shipment in the identified containers.) Abdillahi was perceived by a number of Embassy personnel as being deeply committed to tackling fraud and drug trafficking at the Port of Mombasa. However, a British diplomat revealed to PolCouns January 5 that Abdillahi might have had close ties to the late drug baron Ibrahim Akasha and his family. (NOTE: The Akasha family long controlled drugs (then mostly hashish, heroin, cannabis) along through Mombasa to Europe, with Kenyan police, judges and politicians all bought or intimidated. Akasha was gunned down in Amsterdam in May 2000. One of Akasha's sons was gunned down in 2002 in Mombasa. END NOTE.) Thus, goes this theory, with the Akasha family's wings clipped and now supplanted by upstarts, a falling out among thieves over control of the port could have been behind Abdillahi's aggressive investigations -- and his killing. Meanwhile, it is undisputed that cocaine consumption among Kenyan coastal youths has soared in the past several years.

19. (S) A number of suspects have been arrested for questioning about Abdillahi's death. Among them: four brothers of (known thug and rich-far-beyond-visible-means) Juja MP William Kabogo, who is also owner of a port container transshipment company, (One of those brothers arrested had been arrested the day before Abdillahi was killed, having been charged with the theft of the 39 suspect containers.) Curiously, the Chief of Inspections for CID avowed to Embassy Legal Attach January 4 that the police have little to no leads in the case. In a December 16 conversation with PolCouns, XXXXXXXXXXXX stated baldly that Mombasa CID had uncovered clear evidence of high-level political protection of corruption and drugs trafficking in the port. His CID sources, he said, were very nervous about digging further, fearing that it would get them killed. (XXXXXXXXXXXX.) Mandera Central MP (and Shadow Finance Minister) Billow Kerrow publicly questioned the police,s ability to properly investigate the killing, alleging that members of the police themselves may have been behind the shooting, and called for international assistance to investigate the crime. Former DPP Murgor has made similar calls. The government has yet to comment publicly -- other than Police Commissioner Ali's urging the public not to speculate on any possible narcotics or corruption as being the motive for Abdillahi's murder.

COMMENT

110. (S) COMMENT: The mishandling of the cocaine seizure cases and the brazen murder of the DCIO raise strong suspicions about the integrity of legal and law enforcement authorities to investigate or prosecute the case. (Indeed, simply shipping cocaine in multi-ton loads suggests: a) that

this was not a virgin voyage, but one which employed a well-used route, and b) a route the shippers were comfortable was protected from interception.) Nor can one be assured that the seized drugs remain properly safeguarded. As long as the shipment remains undestroyed, pressure to resell it will only continue. As noted ref A, there have long been reasons to be concerned that high-ranking Kenyan government and/or police officials are either protecting those involved or are themselves involved in actual involvement in drug trafficking activities. (XXXXXXXXXXXX) Post presented a diplomatic note to the MFA January 6, renewing the offer of U.S. government assistance in investigating the December 2004 cocaine seizure case and offering to assist in the investigation of Abdillahi,s murder. Post recommends a letter (to be prepared by Post) from either INL A/S Patterson or DEA Administrator Tandy be sent to the Kenyan Attorney General, Minister of Internal Security and Police Commissioner, reiterating U.S. offers of assistance and pressing the Kenyans to invigorate their investigation efforts. Post also seeks to amend its previous submission for the annual INCSR. It is clear that only a combination of public and private pressure, well coordinated with our diplomatic allies, will move this government to even attempt to kick its increasingly dangerous drug habit.

BELLAMY